

ESTTA Tracking number: **ESTTA716829**

Filing date: **12/28/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Avon Products, Inc.
Granted to Date of previous extension	12/30/2015
Address	777 Third Avenue New York, NY 10178 UNITED STATES
Attorney information	Amy Gaven Kelley Drye & Warren, LLP 101 Park Avenue New York, NY 10178 UNITED STATES trademarks@kelleydrye.com Phone:2128087800

Applicant Information

Application No	86501893	Publication date	09/01/2015
Opposition Filing Date	12/28/2015	Opposition Period Ends	12/30/2015
Applicant	S. C. Johnson & Son, Inc. 1525 Howe Street Racine, WI 53403 UNITED STATES		

Goods/Services Affected by Opposition

Class 003. First Use: 0 First Use In Commerce: 0
All goods and services in the class are opposed, namely: air fragranting preparations

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)

Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	1515090	Application Date	04/27/1988
Registration Date	12/06/1988	Foreign Priority Date	NONE
Word Mark	ODYSSEY		
Design Mark			

Description of Mark	NONE
Goods/Services	Class 003. First use: First Use: 1981/07/00 First Use In Commerce: 1981/07/00 COLOGNE [AND TOILET SOAP]

Attachments	ODISEA AZUL Opposition Ser. No. 86501893.pdf(519628 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Amy Gaven/
Name	Amy Gaven
Date	12/28/2015

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

IN THE MATTER OF TRADEMARK APPLICATION
SERIAL NO. 86/501,893 PUBLISHED IN THE
OFFICIAL GAZETTE ON SEPTEMBER 1, 2015
MARK: ODISEA AZUL

-----X		
AVON PRODUCTS, INC.,	:	
	:	
Opposer,	:	
	:	
v.	:	<u>OPPOSITION NO.</u>
	:	
S.C. JOHNSON & SON, INC.,	:	
	:	
Applicant.	:	
-----X		

NOTICE OF OPPOSITION

AVON PRODUCTS, INC., a New York corporation with a place of business at 777 Third Avenue, New York, New York 10017 (“Opposer”) believes that it will be damaged by the registration of the mark ODISEA AZUL (the “ODISEA AZUL Mark”) for “air fragrancings preparations” in International Class 3 covered by the above-identified application (the “Application”) and hereby opposes the same.

The grounds for opposition are as follows:

1. Opposer is now and for many years past has, among other things, been engaged in distributorship and direct sales services, door-to-door retail merchandising, telephone shop at home services, mail order catalog sales, and interactive retail sales rendered by means of a global computer information network, all in the fields of beauty care, home spa and personal care products, housewares, clothing, toiletries, cosmetics, jewelry, gift items, collectibles, toys,

wellness products, pre-recorded videos, audio tapes, and compact discs throughout the United States and the world.

2. Since long prior to January 13, 2015, the filing date of the intent-to-use application herein opposed, Opposer adopted, has used and is using the trademark ODYSSEY in connection with fragrances and related goods. Opposer has prior use in interstate commerce of the ODYSSEY mark in connection with such goods and since the adoption and first use of the ODYSSEY mark as aforesaid, Opposer has continuously used the ODYSSEY mark on and in connection with the production, advertising, promotion, distribution and sale of such goods in interstate commerce in the United States.

3. The ODYSSEY mark is now and ever since its first use as aforesaid has been applied to products, package materials, advertisements and product literature for the aforesaid fragrances and related goods. Products and materials so marked are now and for many years have been advertised and promoted, and widely shipped, distributed and sold in interstate commerce in the United States. The ODYSSEY mark has come to be and is famous and favorably known, and of great value to Opposer, and in the mind of the trade and public, identifies Opposer's goods and distinguishes them from the goods and services of others.

4. Opposer is the owner in the United States of all right, title and interest, in and to Registration No. 1,515,090 for the mark ODYSSEY for "cologne" in International Class 3. Said registration is valid and subsisting, unrevoked and uncanceled, and in full force and effect. Opposer's right to exclusive use of the mark ODYSSEY in connection with the goods described in said registration has become incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, by virtue of filing the requisite affidavits under Sections 8 and 15 of the Lanham Act. Opposer owns said registration and the trademark shown therein and all the business and goodwill symbolized thereby and associated therewith in the United States.

5. As a result of Opposer's long standing use and extensive advertising and promotion of the aforesaid goods and, most importantly the excellence of the goods themselves, Opposer's ODYSSEY mark has attained an enviable reputation and goodwill that is exclusively associated with Opposer by the consuming public, signifying goods of the highest quality. As a result, Opposer's ODYSSEY mark and the goodwill symbolized by this mark are of inestimable value to Opposer.

6. Applicant seeks to register the ODISEA AZUL Mark for goods that are identical or closely related to Opposer's goods.

7. The Application was published in the September 1, 2015 issue of the Official Gazette. On September 23, 2015, the Board granted Opposer an extension of time to oppose the Application, until December 30, 2015.

8. Opposer has priority of use over Applicant, whose filing date is long subsequent to Opposer's first use of its ODYSSEY mark.

9. Applicant's ODISEA AZUL Mark is confusingly similar, in appearance, sound and meaning to Opposer's mark. Applicant's mark is intended for use on identical or closely related goods and, upon information and belief, will be marketed through the same or similar channels of trade.

10. Given the close resemblance, meaning and commercial impression of the ODISEA AZUL Mark to Avon's famous ODYSSEY mark, the use of the ODISEA AZUL Mark in connection with the advertising, offering for sale and sale of identical or closely related goods and services is likely to cause confusion or to cause mistake, or to deceive actual or potential purchasers into believing that Applicant's goods originate with or are in some way sponsored, licensed, approved or otherwise authorized or connected with Opposer.

11. Applicant's registration and use of the ODISEA AZUL Mark is also likely to dilute Opposer's famous ODYSSEY mark as a source designation for Opposer's goods.

12. Opposer's ODYSSEY mark has been in use since at least as early as 1981 and acquired fame in the marketplace long before Applicant's January 13, 2015 filing date.

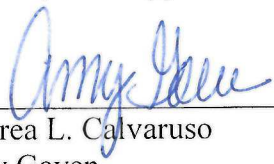
13. Opposer will be damaged by the registration sought by Applicant because such registration would support and assist Applicant in the confusing and misleading use of Applicant's purported trademark and would give to Applicant color of exclusive statutory rights to such designation in violation and derogation of the prior and superior rights of Opposer. Any faults or defects which might be found in Applicant's goods and services would reflect adversely upon and seriously injure the valuable reputation and goodwill of Opposer.

14. By reason of the foregoing, Opposer will be damaged by the registration of the ODISEA AZUL Mark.

WHEREFORE, Opposer believes that it would be damaged by registration of Applicant's mark and prays that this opposition be sustained and registration of the mark ODISEA AZUL be denied.

Dated: December 28, 2015
New York, New York

Respectfully submitted,
KELLEY DRYE & WARREN LLP
Attorneys for Opposer

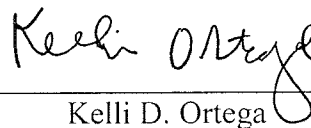


Andrea L. Calvaruso
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CERTIFICATE OF SERVICE

I, Kelli D. Ortega, associate at Kelley Drye & Warren LLP, attorneys for Opposer Avon Products, Inc., hereby affirm under the penalties of perjury, that on December 28, 2015, I caused a true and correct copy of the foregoing Notice of Opposition to be served via first class mail, postage prepaid, upon Applicant:

Melinda Mitchell
S.C. Johnson & Son Inc.
1525 Howe St.
Racine, WI 53403-2237



Kelli D. Ortega